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Dear Colleague Letter: Including Students with Disabilities in all Educational Reform Activities

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United States Department Of Education
Washington, D.C. 20202

September 29, 1997

Dear Colleague:

We are writing to you today to highlight the importance of including students with disabilities in all educational reform activities and, in particular, in statewide assessment systems. As you know, President Clinton has announced a bold, national education initiative which includes the goal of learning to challenging and clear standards of achievement for all students, including students with disabilities. In his 1997 State of the Union address, the President announced a ten-point call to action including rigorous, voluntary national tests in reading and math embodying national standards, teaching every student to read independently by the end of the third grade, and increased accountability in public education.

Assessment is an integral aspect of accountability. Assessment systems have v
purposes. Whatever the focus of the particular assessment system -program

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evaluation, school and staff accountability or measuring student progress - assessments provide valuable information which benefits individual students, either directly, such as in the measurement of individual progress against standards, or indirectly, such as in evaluating programs. Given the emphasis on assessment in recent educational reform efforts, including State and Federal legislation linking assessment and school accountability, it is of utmost importance that students with disabilities be included in the development and implementation of assessment activities. Too often, in the past, students with disabilities have not fully participated in State and district assessments only to be short-changed by the low expectations and less challenging curriculum that may result from exclusion.

Given the benefits that accrue as a result of assessment, exclusion from assessments based on disability generally would not only undermine the value of the assessment but also violate Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits exclusion from participation of, denial of benefits to, or discrimination against, individuals with disabilities on the basis of their disability in Federally-assisted programs or activities. 29 U.S.C. 794. Similarly Title II of the Americans with Disabilities Act (ADA) of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity. 42 U.S.C. 12132.

The newly enacted Individuals with Disabilities Education Act Amendments of 1997 (IDEA) emphasizes improving results for children with disabilities. Consistent with an emphasis on results, IDEA contains requirements related to assessments. As a condition of eligibility, Part B of IDEA requires States to have policies and procedures to ensure that children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. Sec. 612(a)(17); 111 Stat. 67. Effective July 1, 1998, IDEA requires that individualized education programs (IEPs) include a statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in such assessments; and if the IEP team determines that the child will not participate in a particular state or district-wide assessment of student achievement (or part of such assessment), the IEP must provide

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a statement of why that assessment is not appropriate for the child; and how the child will be assessed. Section 614(d)(1)(A) (v); 111 Stat. 84.

In addition to inclusion in assessments, Section 504, Title II of the ADA, and IDEA require that students with disabilities must be provided with appropriate test accommodations, where necessary. Many students with disabilities who have, until now, been excluded can participate appropriately in assessments without any test adaptations or accommodations. However, for those students who need accommodations to participate in the assessment, appropriate accommodations must be provided. Among the possible accommodations in test presentation, response mode and setting are the following: oral administration, large print, Braille version, individual or separate room administration, extended time and multiple test sessions. The individualized determinations of whether a student will participate in a particular assessment, and what accommodations, if any, are appropriate should be addressed through the individualized education program process or other evaluation and placement process and included in either the student s IEP or Section 504 plan.

For the small number of students whose IEPs specify that they should be excluded from regular assessments, including some students with significant cognitive impairments, participation in regular assessments is not appropriate. For these students, Part B of IDEA requires that the State ensure that, as appropriate, the State or local agency (i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and (ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments. Section 612(a)(17)(A); 111 Stat.67. Some States are already implementing assessment models that include all students and use test adaptations, accommodations and alternate assessments, as appropriate.

Part B of IDEA also contains reporting requirements related to assessment. It requires that States have policies and procedures to ensure that the State educational agency makes available to the public (i) the number of children with disabilities participating in regular assessments; (ii) the number of those children participating in alternate assessments; and (iii) beginning not later than July 1, 1998, the performance of children with disabilities on regular assessments and not later than July 1, 2000, the performance of children with disabilities on alternate assessments, if it can be reported

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in a statistically sound manner and would not result in disclosure of performance results identifiable to individual children. The reports must be provided with the same frequency and in the same level of detail as the State s reports on the assessment of nondisabled children. For assessments conducted after July 1, 1998, data relating to the performance of children with disabilities in regular assessments is required to be disaggregated. For those assessments conducted prior to July 1, 1998, the data for children with disabilities participating in regular assessments, is only required by IDEA to be disaggregated if the State requires disaggregation. Section 612(a)(17)(B); 111 Stat. 67-68.

The Office of Special Education Programs within OSERS has a cooperative agreement with the National Center on Educational Outcomes (NCEO) at the University of Minnesota to study and provide information on including students with disabilities in statewide and other assessments. We have enclosed a brochure on the NCEO, which may be contacted for more information.

As we work together to reform our educational system, we must ensure that all children, including students with disabilities, are part of that reform. Including students with disabilities in the development and implementation of assessments is a vital step towards providing access to the general curriculum and learning to challenging standards.

Sincerely,

Judith E. Heumann
Assistant Secretary for
Special Education and
Rehabilitative Services

Norma V. Cantu
Assistant Secretary for
Civil Rights

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Office for Civil Rights (OCR)

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